

Adopted	Rejected
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COMMITTEE REPORT

YES:	22
NO:	0

MR. SPEAKER:

*Your Committee on Ways and Means, to which was referred House Bill 1983, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

- 1 Delete everything after the enacting clause and insert the following:
- 2 SECTION 1. IC 4-4-6.1-1 IS AMENDED TO READ AS
- 3 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. (a) There is created
- 4 a ~~thirteen (13)~~ **nineteen (19)** member enterprise zone board, referred
- 5 to as the "board" in this chapter. The board consists of ~~nine (9)~~ **fifteen**
- 6 **(15)** voting members and four (4) nonvoting, advisory members. **The**
- 7 members **described in subsection (b)(1) through (b)(9)** serve for four
- 8 (4) year terms, except that for the initial appointments to the board, six
- 9 (6) members shall be appointed for two (2) year terms. ~~No~~ **Not** more
- 10 than ~~seven (7)~~ **ten (10)** members may be from the same political party.
- 11 The presence of at least ~~five (5)~~ **eight (8)** voting members is required
- 12 to have a quorum for board meetings.
- 13 (b) The governor shall appoint ~~nine (9)~~ **fifteen (15)** enterprise zone
- 14 board members as follows:

- 1 (1) A representative of business.
- 2 (2) A representative of labor.
- 3 (3) A representative of the fire prevention and building safety
- 4 commission.
- 5 (4) A representative of minority business.
- 6 (5) A representative of small business.
- 7 (6) A representative of a neighborhood association.
- 8 (7) A representative of municipal government.
- 9 (8) A representative of the state department of health.
- 10 (9) The lieutenant governor or his designee.
- 11 **(10) A representative of the department of state revenue.**
- 12 **(11) A representative of the state board of tax commissioners.**
- 13 **(12) A representative of the department of environmental**
- 14 **management.**
- 15 **(13) A representative of the Indiana development finance**
- 16 **authority.**
- 17 **(14) A representative of the Indiana business modernization**
- 18 **and technology corporation.**
- 19 **(15) A representative of the department of workforce**
- 20 **development.**
- 21 (c) The president pro tempore of the state senate shall appoint two
- 22 (2) state senators to the enterprise zone board.
- 23 (d) The speaker of the house of representatives shall appoint two (2)
- 24 state representatives to the enterprise zone board.
- 25 (e) The four (4) legislative members appointed under subsections
- 26 (c) and (d) are the nonvoting, advisory members of the board.
- 27 (f) Members may be dismissed only by the appointing authority and
- 28 only for just cause. The governor shall fill any vacancy as it occurs for
- 29 the remainder of the term.
- 30 (g) The governor shall designate a chairman and vice chairman
- 31 every two (2) years in the month in which the first meeting of the board
- 32 is held or whenever a vacancy occurs.
- 33 (h) The board by rule shall provide for the conduct of its business
- 34 and the performance of its duties.
- 35 (i) The department of commerce shall serve as the staff of the board.
- 36 If an urban enterprise association created under section 4 of this
- 37 chapter requests copies of forms filed with the board, the department
- 38 of commerce shall forward copies of the requested forms to the urban

1 enterprise association.

2 (j) Except as provided in subsection (k), a nonlegislative member is
3 entitled to the minimum salary per diem as provided in
4 IC 4-10-11-2.1(b) while performing his duties. Such a member is also
5 entitled to reimbursement for traveling expenses and other expenses
6 actually incurred in connection with his duties, as provided in the state
7 travel policies and procedures established by the Indiana department
8 of administration and approved by the budget agency.

9 (k) If a nonlegislative member of the board is an elected public
10 official of local government, the member shall not be paid a salary.
11 However, the board member shall be reimbursed for necessary
12 expenses that are incurred in the performance of official duties.

13 (l) A legislative member is entitled to reimbursement as provided by
14 law for traveling expenses and other expenses actually incurred in
15 connection with his duties.

16 SECTION 2. IC 4-4-6.1-2.6 IS ADDED TO THE INDIANA CODE
17 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
18 1, 1999]: **Sec. 2.6. (a) This section applies to records and other
19 information, including records and information that are otherwise
20 confidential, maintained by the following:**

- 21 (1) The board.
- 22 (2) An urban enterprise association.
- 23 (3) The department of state revenue.
- 24 (4) The department of commerce.
- 25 (5) The state board of tax commissioners.
- 26 (6) A county auditor.
- 27 (7) A township assessor.

28 (b) A person listed in subsection (a) may request a second
29 person described in subsection (a) to provide any records or other
30 information maintained by the second person that concern an
31 individual or business that is receiving a tax deduction, exemption,
32 or credit related to an enterprise zone. Notwithstanding any other
33 law, the person to whom the request is made under this section
34 must comply with the request. A person receiving records or
35 information under this section that are confidential must also keep
36 the records or information confidential.

37 (c) A person who receives confidential records or information
38 under this section and knowingly or intentionally discloses the

1 **records or information to an unauthorized person commits a Class**
 2 **A misdemeanor.**

3 SECTION 3. IC 6-3-3-10 IS AMENDED TO READ AS FOLLOWS
 4 [EFFECTIVE JANUARY 1, 2000]: Sec. 10. (a) As used in this section:

5 "Base period wages" means **the following:**

6 **(1) In the case of a taxpayer other than a pass through entity,**
 7 wages paid or payable by a taxpayer to its employees during the
 8 year that ends on the last day of the month that immediately
 9 precedes the month in which an enterprise zone is established, to
 10 the extent that the wages would have been qualified wages if the
 11 enterprise zone had been in effect for that year. If the taxpayer did
 12 not engage in an active trade or business during that year in the
 13 area that is later designated as an enterprise zone, then the base
 14 period wages equal zero (0). If the taxpayer engaged in an active
 15 trade or business during only part of that year in an area that is
 16 later designated as an enterprise zone, then the department shall
 17 determine the amount of base period wages.

18 **(2) In the case of a taxpayer that is a pass through entity,**
 19 **wages paid wages paid or payable by the taxpayer to its**
 20 **employees during 1999, to the extent that the wages would**
 21 **have been qualified wages if the enterprise zone had been in**
 22 **effect for that year. If the taxpayer did not engage in an active**
 23 **trade or business during 1999 in the area that is later**
 24 **designated as an enterprise zone, then the base period wages**
 25 **equal zero (0). If the taxpayer engaged in an active trade or**
 26 **business during only part of 1999 in an area that is later**
 27 **designated as an enterprise zone, then the department shall**
 28 **determine the amount of base period wages.**

29 "Enterprise zone" means an enterprise zone created under
 30 IC 4-4-6.1.

31 "Enterprise zone adjusted gross income" means adjusted gross
 32 income of a taxpayer that is derived from sources within an enterprise
 33 zone. Sources of adjusted gross income shall be determined with
 34 respect to an enterprise zone, to the extent possible, in the same manner
 35 that sources of adjusted gross income are determined with respect to
 36 the state of Indiana under IC 6-3-2-2.

37 "Enterprise zone gross income" means gross income of a taxpayer
 38 that is derived from sources within an enterprise zone.

1 "Enterprise zone insurance premiums" means insurance premiums
2 derived from sources within an enterprise zone.

3 "Monthly base period wages" means base period wages divided by
4 twelve (12).

5 **"Pass through entity" means a:**

6 **(1) corporation that is exempt from the adjusted gross income**
7 **tax under IC 6-3-2-2.8(2);**

8 **(2) partnership;**

9 **(3) trust;**

10 **(4) limited liability company; or**

11 **(5) limited liability partnership.**

12 "Qualified employee" means an individual who is employed by a
13 taxpayer and who:

14 (1) has his principal place of residence in the enterprise zone in
15 which he is employed;

16 (2) performs services for the taxpayer, ninety percent (90%) of
17 which are directly related to the conduct of the taxpayer's trade or
18 business that is located in an enterprise zone; and

19 (3) performs at least fifty percent (50%) of his services for the
20 taxpayer during the taxable year in the enterprise zone.

21 "Qualified increased employment expenditures" means the
22 following:

23 (1) For a taxpayer's taxable year other than his taxable year in
24 which the enterprise zone is established, the amount by which
25 qualified wages paid or payable by the taxpayer during the taxable
26 year to qualified employees exceeds the taxpayer's base period
27 wages.

28 (2) For the taxpayer's taxable year in which the enterprise zone is
29 established, the amount by which qualified wages paid or payable
30 by the taxpayer during all of the full calendar months in the
31 taxpayer's taxable year that succeed the date on which the
32 enterprise zone was established exceed the taxpayer's monthly
33 base period wages multiplied by that same number of full
34 calendar months.

35 "Qualified state tax liability" means a taxpayer's total income tax
36 liability incurred under:

37 (1) IC 6-2.1 (gross income tax) with respect to enterprise zone
38 gross income;

1 (2) IC 6-3-1 through IC 6-3-7 (adjusted gross income tax) with
2 respect to enterprise zone adjusted gross income;

3 (3) IC 27-1-18-2 (insurance premiums tax) with respect to
4 enterprise zone insurance premiums; and

5 (4) IC 6-5.5 (the financial institutions tax);

6 as computed after the application of the credits that, under
7 IC 6-3.1-1-2, are to be applied before the credit provided by this
8 section.

9 "Qualified wages" means the wages paid or payable to qualified
10 employees during a taxable year.

11 **"Taxpayer" includes a pass through entity.**

12 (b) A taxpayer is entitled to a credit against the taxpayer's qualified
13 state tax liability for a taxable year in the amount of the lesser of:

14 (1) the product of ten percent (10%) multiplied by the qualified
15 increased employment expenditures of the taxpayer for the
16 taxable year; or

17 (2) one thousand five hundred dollars (\$1,500) multiplied by the
18 number of qualified employees employed by the taxpayer during
19 the taxable year.

20 (c) The amount of the credit provided by this section that a taxpayer
21 uses during a particular taxable year may not exceed the taxpayer's
22 qualified state tax liability for the taxable year. If the credit provided by
23 this section exceeds the amount of that tax liability for the taxable year
24 it is first claimed, then the excess may be carried back to preceding
25 taxable years or carried over to succeeding taxable years and used as
26 a credit against the taxpayer's qualified state tax liability for those
27 taxable years. Each time that the credit is carried back to a preceding
28 taxable year or carried over to a succeeding taxable year, the amount
29 of the carryover is reduced by the amount used as a credit for that
30 taxable year. Except as provided in subsection (e), the credit provided
31 by this section may be carried forward and applied in the ten (10)
32 taxable years that succeed the taxable year in which the credit accrues.
33 The credit provided by this section may be carried back and applied in
34 the three (3) taxable years that precede the taxable year in which the
35 credit accrues.

36 (d) A credit earned by a taxpayer in a particular taxable year shall
37 be applied against the taxpayer's qualified state tax liability for that
38 taxable year before any credit carryover or carryback is applied against

1 that liability under subsection (c).

2 (e) Notwithstanding subsection (c), if a credit under this section
3 results from wages paid in a particular enterprise zone, and if that
4 enterprise zone terminates in a taxable year that succeeds the last
5 taxable year in which a taxpayer is entitled to use the credit carryover
6 that results from those wages under subsection (c), then the taxpayer
7 may use the credit carryover for any taxable year up to and including
8 the taxable year in which the enterprise zone terminates.

9 (f) A taxpayer is not entitled to a refund of any unused credit.

10 (g) A taxpayer that:

- 11 (1) does not own, rent, or lease real property outside of an
- 12 enterprise zone that is an integral part of its trade or business; and
- 13 (2) is not owned or controlled directly or indirectly by a taxpayer
- 14 that owns, rents, or leases real property outside of an enterprise
- 15 zone;

16 is exempt from the allocation and apportionment provisions of this
17 section.

18 **(h) If a pass through entity is entitled to a credit under**
19 **subsection (b) but does not have state tax liability against which the**
20 **tax credit may be applied, an individual who is a shareholder,**
21 **partner, beneficiary, or member of the pass through entity is**
22 **entitled to a tax credit equal to:**

- 23 **(1) the tax credit determined for the pass through entity for**
- 24 **the taxable year; multiplied by**
- 25 **(2) the percentage of the pass through entity's distributive**
- 26 **income to which the shareholder, partner, beneficiary, or**
- 27 **member is entitled.**

28 **The credit provided under this subsection is in addition to a tax**
29 **credit to which a shareholder, partner, beneficiary, or member of**
30 **a pass through entity is entitled. However, a pass through entity**
31 **and an individual who is a shareholder, partner, beneficiary, or**
32 **member of a pass through entity may not claim more than one (1)**
33 **credit for the qualified expenditure.**

34 SECTION 4. IC 6-3.1-7-1 IS AMENDED TO READ AS
35 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 1. As used in this
36 chapter:

37 "Enterprise zone" means an enterprise zone created under
38 IC 4-4-6.1.

1 **"Pass through entity" means a:**

- 2 (1) corporation that is exempt from the adjusted gross income
3 tax under IC 6-3-2-2.8(2);
4 (2) partnership;
5 (3) trust;
6 (4) limited liability company; or
7 (5) limited liability partnership.

8 "Qualified loan" means a loan made to an entity that uses the loan
9 proceeds for:

- 10 (1) a purpose that is directly related to a business located in an
11 enterprise zone;
12 (2) an improvement that increases the assessed value of real
13 property located in an enterprise zone; or
14 (3) rehabilitation, repair, or improvement of a residence.

15 "State tax liability" means a taxpayer's total tax liability that is
16 incurred under:

- 17 (1) IC 6-2.1 (the gross income tax);
18 (2) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);
19 (3) IC 6-3-8 (the supplemental net income tax);
20 (4) IC 6-5-10 (the bank tax);
21 (5) IC 6-5-11 (the savings and loan association tax);
22 (6) IC 27-1-18-2 (the insurance premiums tax); and
23 (7) IC 6-5.5 (the financial institutions tax);

24 as computed after the application of the credits that, under
25 IC 6-3.1-1-2, are to be applied before the credit provided by this
26 chapter.

27 "Taxpayer" means any person, corporation, limited liability
28 company, partnership, or other entity that has any state tax liability.

29 **The term includes a pass through entity.**

30 SECTION 5. IC 6-3.1-7-2 IS AMENDED TO READ AS
31 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 2. (a) A taxpayer
32 is entitled to a credit against his state tax liability for a taxable year if
33 he receives interest on a qualified loan in that taxable year.

34 (b) The amount of the credit to which a taxpayer is entitled under
35 this section is five percent (5%) multiplied by the amount of interest
36 received by the taxpayer during the taxable year from qualified loans.

37 (c) **If a pass through entity is entitled to a credit under**
38 **subsection (a) but does not have state tax liability against which the**

1 tax credit may be applied, an individual who is a shareholder,
 2 partner, beneficiary, or member of the pass through entity is
 3 entitled to a tax credit equal to:

4 (1) the tax credit determined for the pass through entity for
 5 the taxable year; multiplied by

6 (2) the percentage of the pass through entity's distributive
 7 income to which the shareholder, partner, beneficiary, or
 8 member is entitled.

9 The credit provided under this subsection is in addition to a tax
 10 credit to which a shareholder, partner, beneficiary, or member of
 11 a pass through entity is entitled. However, a pass through entity
 12 and an individual who is a shareholder, partner, beneficiary, or
 13 member of a pass through entity may not claim more than one (1)
 14 credit for the qualified expenditure.

15 SECTION 6. IC 6-3.1-10-4 IS AMENDED TO READ AS
 16 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 4. ~~(a)~~ As used in
 17 this chapter, "taxpayer" means **the following**:

18 (1) Any individual that has any state tax liability.

19 ~~(b) Notwithstanding subsection (a), for a credit for a qualified~~
 20 ~~investment in a business located in an enterprise zone in a county~~
 21 ~~having a population of more than one hundred thousand (100,000) but~~
 22 ~~less than one hundred seven thousand (107,000); "taxpayer" includes~~
 23 ~~a pass through entity.~~

24 (2) **A pass through entity (as defined in IC 6-3-3-10).**

25 SECTION 7. IC 6-3.1-10-8 IS AMENDED TO READ AS
 26 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 8. (a) To be
 27 entitled to a credit, a taxpayer must request the department of
 28 commerce to determine:

29 (1) whether a purchase of an ownership interest in a business
 30 located in an enterprise zone is a qualified investment; and

31 (2) the percentage credit to be allowed.

32 The request must be made before a purchase is made.

33 (b) The department of commerce shall find that a purchase is a
 34 qualified investment if:

35 (1) the business is viable;

36 (2) the business has not been disqualified from enterprise zone
 37 incentives or benefits under IC 4-4-6.1;

38 (3) the taxpayer has a legitimate purpose for purchase of the

1 ownership interest;

2 (4) the purchase would not be made unless a credit is allowed
3 under this chapter; and

4 **(5) in the case of a business that has not commenced any**
5 **business operations or is a start-up business,** the purchase is
6 critical to the commencement, enhancement, or expansion of
7 business operations in the zone and will not merely transfer
8 ownership, and the purchase proceeds will be used only in
9 business operations in the enterprise zone.

10 The department may delay making a finding under this subsection if,
11 at the time the request is filed under subsection (a), an urban enterprise
12 zone association has made a recommendation that the business be
13 disqualified from enterprise zone incentives or benefits under
14 IC 4-4-6.1 and the enterprise zone board has not acted on that request.
15 The delay by the department may not last for more than sixty (60) days.

16 (c) If the department of commerce finds that a purchase is a
17 qualified investment, the department shall certify the percentage credit
18 to be allowed under this chapter based upon the following:

19 (1) A percentage credit of ten percent (10%) may be allowed
20 ~~based upon the need of the business for equity financing; as~~
21 ~~demonstrated by the inability of the business to obtain debt~~
22 ~~financing; for:~~

23 **(A) the redevelopment and environmental remediation of**
24 **real property that has environmental contamination;**

25 **(B) the redevelopment of real property that has perceived**
26 **environmental contamination; or**

27 **(C) the redevelopment of real property that is abandoned**
28 **or otherwise under used.**

29 **A taxpayer may receive a credit under clause (A) in addition**
30 **to any other credits the taxpayer is otherwise entitled to**
31 **receive. A credit may not be granted to a taxpayer unless the**
32 **taxpayer has not contributed to the contamination and has**
33 **never had an ownership interest in an entity that contributed**
34 **to the contamination.**

35 (2) A percentage credit of two percent (2%) may be allowed for
36 business operations in the retail, professional, or
37 warehouse/distribution codes of the SIC Manual.

38 (3) A percentage credit of five percent (5%) may be allowed for

business operations in the manufacturing codes of the SIC Manual.

(4) A percentage credit may be allowed for jobs created during the twelve (12) month period following the purchase of an ownership interest in the zone business, as determined under the following table:

JOBS CREATED	PERCENTAGE
Less than 11 jobs	1%
11 to 25 jobs	2%
26 to 40 jobs	3%
41 to 75 jobs	4%
More than 75 jobs	5%

(5) A percentage credit of five percent (5%) may be allowed if fifty percent (50%) or more of the jobs created in the twelve (12) month period following the purchase of an ownership interest in the zone business will be reserved for zone residents.

(6) A percentage credit may be allowed for investments made in real or depreciable personal property, as determined under the following table:

AMOUNT OF INVESTMENT	PERCENTAGE
Less than \$25,001	1%
\$25,001 to \$50,000	2%
\$50,001 to \$100,000	3%
\$100,001 to \$200,000	4%
More than \$200,000	5%

The total percentage credit may not exceed thirty percent (30%).

(d) If all or a part of a purchaser's intent is to transfer ownership, the tax credit shall be applied only to that part of the investment that relates directly to the enhancement or expansion of business operations at the zone location.

(e) The total amount of tax credits allowed under this chapter may not exceed five hundred thousand dollars (\$500,000) in a state fiscal year. The department shall record the time of filing of each claim for a credit and shall approve the claims, if they otherwise qualify for a tax credit under this chapter, in the chronological order in which the claims are filed in the state fiscal year.

SECTION 8. [EFFECTIVE JANUARY 1, 2000] IC 6-3-3-10, IC 6-3.1-7-1, IC 6-3.1-7-2, IC 6-3.1-10-4, and IC 6-3.1-10-8, all as

- 1 **amended by this act, apply only to taxable years beginning after**
- 2 **December 31, 1999.**

(Reference is to HB 1983 as introduced.)

and when so amended that said bill do pass.

Representative Bauer